

**DEPARTMENT OF HUMAN SERVICES
INTER-OFFICE COMMUNICATION**

TO: Gwendolyn L. Harris
Commissioner

FROM: Matthew D. D'Oria, Acting Director
Division of Medical Assistance and Health Services

DATE: August 28, 2003

SUBJECT: Special Adoption; 03-A-12; N.J.A.C. 10:49 and 10:78
Amendments to the NJ FamilyCare Rules
Service and Eligibility Changes

The Division of Medical Assistance and Health Services is adopting amendments to the NJ FamilyCare program. In accordance with the provisions of P.L.2003, c.122 (State Fiscal Year 2004 Appropriations Act), these amendments will become effective upon filing with the Office of Administrative Law, which we expect will occur on September 26, 2003, allowing publication in the New Jersey Register on October 20, 2003. The rules contain an operative date of November 1, 2003.

P.L.2003, c.122 provides that, notwithstanding the provisions of the Administrative Procedure Act, P.L. 1968, N.J.S.A. 52:14B-1 et seq., the Commissioner of Human Services may adopt immediately upon filing with the Office of Administrative Law such regulations as the Commissioner deems necessary to ensure that monies expended for the NJ FamilyCare health coverage program do not exceed the amount appropriated. (See also State Fiscal Year 2004 Proposed Budget, page D-232.) The appropriation language further provides that such regulation may change or adjust:

- The financial and non-financial eligibility requirements for some or all of the applicants or beneficiaries in the program;
- The benefits provided; and
- Cost-sharing amounts; or
- May suspend in whole or in part the processing of applications for any or all categories of individuals covered by the program.

The special adoption makes the following changes:

- All restricted alien parents (adults with dependent children), regardless of income, will receive the Plan H service package.
- The Plan H service package will be delivered through a managed care service administrator.
- Those who are enrolled in Plan H will have a reduced package of services.

NJ FamilyCare will remain available to all eligible children with annual family incomes up to 350% of the FPL. Also, Presumptive Eligibility is still an option for children in families with income at or below 200% FPL and for pregnant women.

All affected beneficiaries have been notified of the reduction in services and of the need to select a managed care service administrator.

These changes in services are expected to result in a reduction in costs. After November 1, 2003, the State expects to operate the NJ FamilyCare program at the appropriated amount of \$118.2 million, a State savings of approximately \$45.5 million.

Please expedite the review process, sign the Certificate of Adoption and contact the Division to file the adoption with the Office of Administrative Law by September 26, 2003 for publication in the October 20, 2003 issue of the New Jersey Register.

MDD:Pp

Attachments

c: John Walzer

PROPOSAL DISTRIBUTION (18)

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HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

NJ FamilyCare; Service Changes in Plan H

Adopted Amendments: N.J.A.C. 10:49-5.8, 10:78-7.1

Adopted: , 2003 by Gwendolyn L. Harris, Commissioner,
Department of Human Services.

Filed: as R. 2003 d.

Authority: N.J.S.A. 30:4D-1 et seq., P.L.2003, c.122 (State Fiscal Year
2004 Appropriations Act).

Agency Control Number: 03-A-12.

Effective Date: Date filed at the Office of Administrative Law

Operative Date: November 1, 2003.

Expiration Date: January 22, 2008; N.J.A.C. 10:49
March 5, 2006; N.J.A.C. 10:78

Summary

The Division of Medical Assistance and Health Services is adopting amendments to the NJ FamilyCare program which will limit Plan H services. In accordance with State Fiscal Year 2004 appropriation language, these amendments become effective upon filing with the Office of Administrative Law (OAL). The Division will implement these provisions on November 1, 2003.

Adults without dependent children whose income is below 100 percent of the Federal poverty level and who do not qualify for WFNJ/GA and who were enrolled in NJ FamilyCare on July 1, 2002 have been receiving the NJ FamilyCare Plan H service package. This service package will change to a more limited array of services.

Additionally, restricted alien parents will receive Plan H services. Plan H will now include the following services: pharmacy, primary and physician specialty care, laboratory, radiology, community mental health, inpatient and outpatient hospital services (non-behavioral health related), home health, limited durable medical equipment and emergency ambulance services. This change will affect approximately 16,000 people. The Plan H service package will be provided through a managed care service administrator.

The Office of NJ FamilyCare will continue to outreach and enroll all eligible children, which was, and still is, the primary focus of the program. NJ FamilyCare will remain available to all eligible children with annual family incomes up to 350% of the FPL. Also, Presumptive Eligibility is still an option for children in families with income at or below 200% FPL and for pregnant women.

Summary of Amendments:

At N.J.A.C. 10:49-1.3, Definitions, has been amended to add a definition for "managed care service administrator," an entity that has a non-risk financial arrangement with the State for the purpose of arranging to provide a designated set of services to eligible beneficiaries, in the case of this adoption, for Plan H beneficiaries.

At N.J.A.C. 10:49-5.8, a new subsection (b) has been added to indicate that all restricted alien parents will now receive the Plan H service package. Existing subsections have been recodified.

At N.J.A.C. 10:49-5.8, Services available for beneficiaries eligible for NJ FamilyCare Plan H, subsection (d) has been recodified as (e) and amended to list those services which will now be available to those eligible for Plan H. The services include: pharmacy, primary and physician specialty care, laboratory, radiology, community mental health, inpatient and outpatient hospital services (non-behavioral health related), home health, durable medical equipment and emergency ambulance services. Durable medical equipment is limited to those items which are determined to be a medically necessary part of the hospital discharge plan for a beneficiary being released from inpatient treatment. The Plan H services will be delivered by a managed care service administrator, and a definition for this entity is also being added. Managed care service administrators will deliver services to Plan H beneficiaries on a non-risk basis.

N.J.A.C. 10:78-7.1 has been amended to add a new subsection (j), to indicate that restricted alien parents will receive the Plan H package of services.

Social Impact

There are currently over 260,000 adults and children enrolled in NJ FamilyCare. Beneficiaries enrolled in Plan H and restricted alien parents, will receive a reduced service package, effective November 1, 2003. This change will affect approximately 16,000 adult beneficiaries.

Economic Impact

The amendments are necessary for the State to remain within the limits of the total projected available funding of \$118.2 million for NJ FamilyCare in the State Fiscal Year

2004 Appropriations Act. Providers of managed care Plan H services will continue to be reimbursed. However, providers of Plan H services may experience a decrease in income related to the services being discontinued. There are approximately 16,000 beneficiaries who will receive Plan H services. Those beneficiaries would need to find another source of payment for the services being discontinued, or forgo those services.

Federal Standards Statement

The Division has reviewed the Federal statutory and regulatory requirements and has determined that the amendments are not affected by Federal standards because the program rules are promulgated under the authority of N.J.S.A. 30:4-1 et seq., as amended by P.L.2003, c. 122 (State Fiscal Year 2004 Appropriations Act).

Jobs Impact

The Division anticipates that jobs will be neither created nor eliminated as a result of the amendments.

Agriculture Industry Impact

This rule adoption is not expected to have an impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The amendments apply to individuals who are seeking health services benefits, and not to any business entity. Therefore, a regulatory flexibility analysis is not required.

Full text of the adopted amendments follows (additions indicated in boldface with asterisks ***thus***; deletions indicated in brackets with asterisks *[thus]*):

10:49-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

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“Managed care service administrator” means an entity in a non-risk based financial arrangement that contracts to provide a designated set of services for an administrative fee. Services provided may include, but are not limited to: medical management, claims processing and provider network maintenance.”

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10:49-5.8 Services available for beneficiaries eligible for NJ FamilyCare Plan H

(a) Childless adults whose income is below 100 percent of the Federal poverty level and who do not qualify for WFNJ/GA and who are enrolled in NJ FamilyCare on July 1, 2002 shall be eligible to receive the NJ FamilyCare Plan H service package.

(b) Restricted alien parents who are enrolled in NJ FamilyCare on November 1, 2003, shall receive the Plan H service package.

Recodify (b) - (c) as (c) -(d) (No change in text.)

***[(d)]**(e)** The services listed below shall be available to beneficiaries eligible for NJ FamilyCare Plan H, when medically necessary and when provided through the network of ***[an HMO]**a managed care service administrator** selected by the beneficiary;

1. Ambulance--***medical***emergency ***only***;
2. Ambulatory surgery ***in an outpatient hospital setting only***;
3. Certified nurse practitioner/clinical nurse specialist;
4. Clinic services (free standing)--ambulatory;
5. ***[Clinic services (free standing)--ESRD;**
6. Clinic services (free standing)--family planning;
- 7.]*** Diabetic supplies/equipment;**

6. Durable Medical equipment-limited benefit, only covered when a medically necessary part of the beneficiary's inpatient hospital discharge plan;

- *[8]* *7*. Emergency room *services*;**
- *[9. Family planning services;]***
- *[10]**8*. Federally qualified health centers (FQHC) *[encounters]**primary care services*;**
- *[11. HealthStart maternity;**
12. HMO services not otherwise specified herein;]*
- *[13]**9*. Home health care services (limited benefits);**
- *[14. Hospice services--non-nursing facility based;]***
- *[15]**10*. Inpatient hospital (non-behavioral health related);**
- *[16]**11*. Laboratory services;**
- *[17. Maternity services;**
18. Nurse midwifery--nonmaternity;
19. Nurse midwifery services--maternity;
20. Organ transplantation;]*

*[21]**12*. Outpatient hospital (non-mental health related);

*[22. Optometric services (limited benefits);

23. Optical appliances (limited benefits);]*

*[24]**13*. Physician services;

[25. Podiatric services;]

*[26]**14*. Prescription drugs (excludes over the counter medications); *and*

*[27. Private duty nursing (when authorized);

28. Prosthetic devices (limited benefits);

29. Psychological services (up to a maximum of 60 days of mental health services per calendar year); and]*

*[30]**15*. Radiological services.

*[(e)]**(f)* The following services shall be available to NJ FamilyCare Plan H beneficiaries on a fee-for-service basis:

1. Abortion (elective/induced); *and*

2. Mental health services in the community, including psychological services, up to a maximum of 60 days per calendar year*[*];

3. Outpatient rehabilitative services: speech therapy, occupational therapy and physical therapy, in an office, a hospital based clinic, an independent clinic, or by a home health agency; and

4. Skilled nursing services (limited benefits).

i. For individuals admitted to a skilled nursing facility, managed care shall be terminated in the month of admission, which shall result in the termination of eligibility for Plan H]*.

10:78-7.1 Scope of services

(a) - (c) (No change.)

(d) Except as noted in ***[(c) above]**N.J.A.C. 10:49-5.8 and 10:49-5.11***, NJ FamilyCare beneficiaries shall receive services through managed care organizations operating under a contract with the Department of Human Services. Single adults and couples without dependent children whose gross income is not more than 100 percent*[,]* of the Federal poverty level will be enrolled in a ***[conventional]*** managed care ***service administrator*** program. Effective July 1, 2002, ***[childless]*** adults ***without dependent children*** who are not eligible for WFNJ/GA and whose income is below 100 percent of the Federal poverty level shall receive the NJ FamilyCare Plan H service package described at N.J.A.C. 10:49-5.8.

(e) - (f) (No change in text.)

(g) Effective July 1, 2002, for WFNJ/GA-eligible individuals, no managed care services will be provided. WFNJ/GA-eligible individuals will receive medical services in accordance with N.J.A.C. 10:49-24.3. Effective ***[July 1, 2002]* *July 1, 2003***, all substance abuse services for WFNJ/GA-eligible individuals will be provided through the Substance Abuse Initiative (SAI).

1. (No change.)

(h) - (i) (No change.)

(j) Effective November 1, 2003, all restricted alien parents shall be enrolled in Plan H and shall receive the services described in N.J.A.C. 10:49-5.8